

STRAITS SETTLEMENTS LAW REPORTS.

PUBLISHED BY AUTHORITY.

[ORIGINAL CIVIL JURISDICTION]

MILLS, J.

January 22, 1934.

IN THE ESTATE OF EMBI BIN HAJI
ABDULLAH DECEASED.
MOHAMED PIN HAJI OMAR

vs.

ZAINAB BINTE MOHAMED SYED (w).

[SINGAPORE ORIGINATING SUMMONS No. 116
of 1931]*Practice—Amendment of Judgment or order.*

The Court has no power to amend or alter a Judgment or order which has been duly passed and entered except (i) where there has been an accidental slip in the wording, or (ii) where the Judgment or order does not express the manifest intention of the Court. In other cases there may be a remedy by way of appeal from the Judgment, or by way of bringing a fresh action to set aside the Judgment.

Adjourned Summons.

In this case the Plaintiff claimed to be an equitable mortgagee by deposit of title deeds of property belonging to a deceased person. He commenced proceedings against the Defendant as the administratrix of the deceased, in which proceedings he claimed a declaration that he was an equitable mortgagee of the property, an account, foreclosure and other relief.

The facts were that the Defendant was the widow of the deceased and she had applied for a grant of Letters of Administration which grant had been made to her but owing to difficulty in finding sureties for the Administration bond she had not actually extracted the grant of Letters of Administration.

The Plaintiff duly served the Defendant with all the proceedings. She did not oppose the proceedings and the plaintiff duly obtained first an order for foreclosure *nisi* and later on the 7th December, 1931 an order for foreclosure absolute.

In January, 1934 the Plaintiff wished to take other proceedings in connection with his debt and considering that he was debarred by his foreclosure decree, he applied by Summons in Chambers to discharge the two orders for foreclosure *nisi* and foreclosure absolute, on the ground that they had been wrongly obtained and were ineffective, the Defendant not having extracted her grant of Letters of Administration at the times when such orders were made, and there being no order for representation.

Mallal for Plaintiff. The order was ineffective as the estate of the deceased was not bound and therefore did not give the Plaintiff the proper relief and therefore should be discharged.

Laycock for Defendant. The Court has no power to amend or alter a Judgment which has been duly passed and entered except under the slip rule, or where the Judgment or order does not express the intention of the Court. Possibly the Plaintiff might have appealed, or he might have brought a fresh action to set aside the original Judgment or order, though this is not admitted. The Court has no jurisdiction to grant this application. He referred to *Ainsworth v. Wilding*, (1896) 1 Ch. 677; *MacCarthy v. Agard*, (1933) 2 K.B. 417; *Hulbert v. Thurston*, (1931) W. N. 171; *Green v. Weatherell*, (1929) 2 Ch. 213.

Mallal (in reply). The Court has an inherent jurisdiction to discharge a useless order.

Cur. Ad. Vult.

MILLS, J. delivered an oral Judgment dismissing the application with costs.

*Application dismissed.*Solicitors for the Plaintiff—*Mallal & Namazie*.Solicitors for the Defendant—*Braddell Brothers*.

THE END OF THE STRAITS SETTLEMENTS
OFFICIAL REPORTS.

[ORIGINAL CIVIL JURISDICTION]

N. A. WORLEY, COMM'R.

February 8, 1934.

R. SALDANHA.....Applicant.
vs.

EASTERN MANUFACTURING CO.,

Respondents.

[SINGAPORE WORKMEN'S COMPENSATION CLAIM
No. 14 of 1933].

Workmen's Compensation—workman leaving duty—acting contrary to prohibition—accident—hand caught in rolling machine—resulting injuries—Workmen's Compensation Ordinance, 1932, Section 3 (2), (b), (ii).

The applicant, who was employed as a "Spotter," sustained injuries as a result of his hand being caught in a rolling machine. It was no part of his duty to assist in the work of rolling. At the time of the accident he was found wearing gloves contrary to a regulation in the factory which prohibited the wearing of gloves or long sleeves by men working on the machine.

Held, that the claim was not maintainable on the grounds (1) that the accident did not arise out of the employment and (2) that the applicant was acting in wilful breach of an express order framed for his safety.

Inquiry before Commissioner of Workmen's Compensation.

The applicant was employed as "Spotter," his job being to hold the edges of a steel plate together whilst it was being "spotted" preparatory to welding. Fifteen feet away from the spotting bench was the rolling machine in which